

ITW



PATENT
Customer No. 22,852
Attorney Docket No. 8676.0005-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
James Michael O'DWYER)	Group Art Unit: 3641
)	
Serial No.: 10/671,582)	Examiner: CHAMBERS, Troy
)	
Filed: September 29, 2003)	
)	Confirmation No.: 9975
For: SET DEFENCE MEANS)	
)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ELECTION REQUIREMENT

In an election requirement dated October 18, 2004, the Examiner required Applicant, under 35 U.S.C. § 121, to elect a single species for prosecution on the merits, to which the claims shall be restricted if no generic claim is finally held to be allowable, from the following allegedly patentably distinct species of the claimed invention: Species A directed to Figs. 1 and 2; Species B directed to Figs. 3 and 4; Species C directed to Fig. 5 and 6; Species D directed to Fig. 7; Species E directed to Fig. 8; and Species F directed to Figs. 9, 10, and 11.

Applicant provisionally elects, with traverse, to prosecute the species characterized by the Examiner as "Species A, Figs. 1 and 2." Claims 9-21 and 22-30 read on "Species A, Figs. 1 and 2."

The Examiner alleges that this application contains claims directed to more than one species of the generic invention. Applicant traverses this election of species requirement on the grounds that, at the very least, "Species A, Figs. 1 and 2;" "Species B, Figs. 3 and 4;" and "Species C, Figs. 5 and 6," as labeled by the Examiner, are linked as to form a single general inventive concept under PCT Rule 13.1 and do not lack unity of invention. Each of those alleged species is at least directed to "a defence system for a predetermined landing area," as recited in claim 9, comprising:

- a sensor system for detecting an intrusion in any of a plurality of zones within the predetermined area,

- at least one weapon having multiple barrels that are trained on the area, each barrel being loaded with multiple projectiles that are sequentially selected and fires, and

- a firing controller that receives signals from the sensor system and triggers the weapon so that projectiles are fired into one or more of the zones in which the intrusion is detected.

Each of those alleged species is also at least directed to "a method of targeting intrusions on a predetermined landing area," as recited in claim 22, comprising:

- locating at least one weapon having multiple barrels trained on zones in the area, each barrel containing multiple projectiles that are sequentially selected and fired,

- locating a sensor system for detecting an intrusion on the land area,
- detecting an intrusion in one or more of the zones via the sensor system,
- and

- triggering the weapon to fire one or more projectiles into each of the zones in which the intrusion is detected.

The only difference between "Species A, Figs. 1 and 2" and "Species B, Figs. 3 and 4," concerns the specific details of the "at least one weapon" limitation, which does not render these species patentably distinct. Similarly, the only difference between "Species C, Figs. 5 and 6" and Species A and B is the location of the "defence system

for a predetermined landing area," which also does not render these species patentably distinct.

Further, the Examiner has not shown that there would be a serious burden to examine all of the alleged species. See M.P.E.P. § 803. In fact, the Examiner has failed to show that any burden exists. Accordingly, Applicant requests that the Examiner at least allow the election of "Species A, Figs. 1 and 2," "Species B, Figs. 3 and 4," and "Species C, Figs. 5 and 6," because claims 9-21 and 22-30 read on all three related species.


Alternatively, Applicant submits that at least independent claims 9 and 22, as discussed above, are generic claims. Applicant, therefore, requests that the Examiner withdraw this election of species requirement.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: November 18, 2004

By: 
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